

WHEREFORE, the defendant United States of America prays for judgment dismissing the complaint, with prejudice; for recovery of its costs and disbursements in this action; and for such other and further relief as the Court may deem appropriate in the premises.

DATED this 12th day of August, 1971.

/s/ OTIS L. PACKWOOD  
Otis L. Packwood  
United States Attorney for the  
District of Montana  
*Attorney for Defendant*

(Certificate of service omitted)

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

(Title omitted in printing)

**Agreed Statement of Facts**

(Filed December 29, 1971)

Come now the parties above named, by and through their respective counsel, and hereby stipulate and agree that the following facts are true and hereby admit same for all purposes concerning the litigation of the above-entitled cause:

1. Plaintiff is a citizen of the United States and a resident of the State of Montana.

2. As a member of the Army Reserve, the plaintiff served a tour of active duty with the United States Army from July 16, 1966, to April 26, 1971.

3. Plaintiff had attained the rank of Captain when he was honorably and involuntarily released from active duty on April 26, 1971. At this time he was receiving the base pay of \$1,063.80 per month.

4. At the time of his release from active duty on April 26, 1971, plaintiff had completed, immediately before his release, four (4) years, nine (9) months and thirteen (13) days continuous active duty.

5. On April 20, 1971, after he was notified he was to be released, plaintiff requested a lump-sum readjustment payment in accordance with the provisions of 10 U.S.C. § 687 (a), which request was refused.

6. The amount of readjustment pay due, if any, calculated in accordance with the provisions of 10 U.S.C § 687 (a) is \$10,638.00; however, for jurisdictional purposes plaintiff has waived all readjustment pay due, if any, in excess of \$10,000.00.

Dated this 28th day of December, 1971.

DONALD C. CASS

/s/ CHARLES A. SMITH  
Charles A. Smith  
*Attorney for Plaintiff*  
DONALD C. CASS

UNITED STATES OF AMERICA

/s/ OTIS L. PACKWOOD  
Otis L. Packwood  
*Attorney for Defendant*  
*United States*

UNITED STATES DISTRICT COURT  
DISTRICT OF MONTANA  
HELENA DIVISION

(Title Omitted in Printing)

**Stipulation**

(Filed January 21, 1972)

The undersigned attorneys for the parties hereby stipulate and agree that the matter may be decided by the court based upon the Agreed Statement of Facts filed in this case.

The plaintiff shall have until February 11, 1972, to file his brief and the defendant shall have until March 10, 1972, in which to file its answering brief and the plaintiff shall have until March 20, 1972, in which to file his reply brief, at which time the matter will be deemed submitted for decision by the court.

/s/ CHARLES A. SMITH  
Charles A. Smith  
Cannon, Smith & Garrity  
Attorneys at Law  
*Attorney for Plaintiff*

/s/ OTIS L. PACKWOOD  
Otis L. Packwood  
United States Attorney for the  
District of Montana  
*Attorney for Defendant*

**Order**

It Is so ordered.

/s/ RUSSELL E. SMITH  
Russell E. Smith  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MONTANA

(Title Omitted in Printing)

**Judgment**

(Filed June 21, 1972)

This action came on for (hearing) before the Court, Honorable Russell E. Smith, United States District Judge, presiding, and the issues having been duly (heard) and a decision having been duly rendered,

It is Ordered and Adjudged that plaintiff have judgment against the defendant in the sum of Ten Thousand Dollars (\$10,000.00)

Dated at Butte, Montana, this 21st day of June, 1972.

JOHN J. PARKER  
Clerk of Court

/s/ N. P. CANNON  
N. P. Cannon  
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

(Title Omitted in Printing)

**Notice of Appeal**

(Filed August 18, 1972)

NOTICE IS HEREBY GIVEN that the United States of America defendant above named hereby appeals to the United States Court of Appeals for the Ninth Circuit from the final judgment entered in this action on the 21st day of June, 1972.

DATED this 18th day of August, 1972.

OTIS L. PACKWOOD  
United States Attorney for the  
District of Montana

/s/ OTIS L. PACKWOOD  
Otis L. Packwood  
*Attorney for Defendant*

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

DONALD C. CASS, *Plaintiff-Appellee*,

v.

UNITED STATES OF AMERICA, *Defendant-Appellant*.

No. 72-2633

DC No. Civ. 2014 Res.

**Judgment**

APPEAL from the United States District Court for the District of Montana.

THIS CAUSE came on to be heard on the Transcript of the Record from the United States District Court for the District of Montana and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court, that the judgment of the said District Court in this Cause be, and hereby is reversed. With costs in this Court in favor of the Appellant and against the Appellee.

Costs:

Printing of Appellant's brief—\$78.40.

Filed and entered August 1, 1973

SUPREME COURT OF THE UNITED STATES

No. 73-604

DONALD C. CASS, *Petitioner*,

v.

UNITED STATES

**Order Allowing Certiorari.**

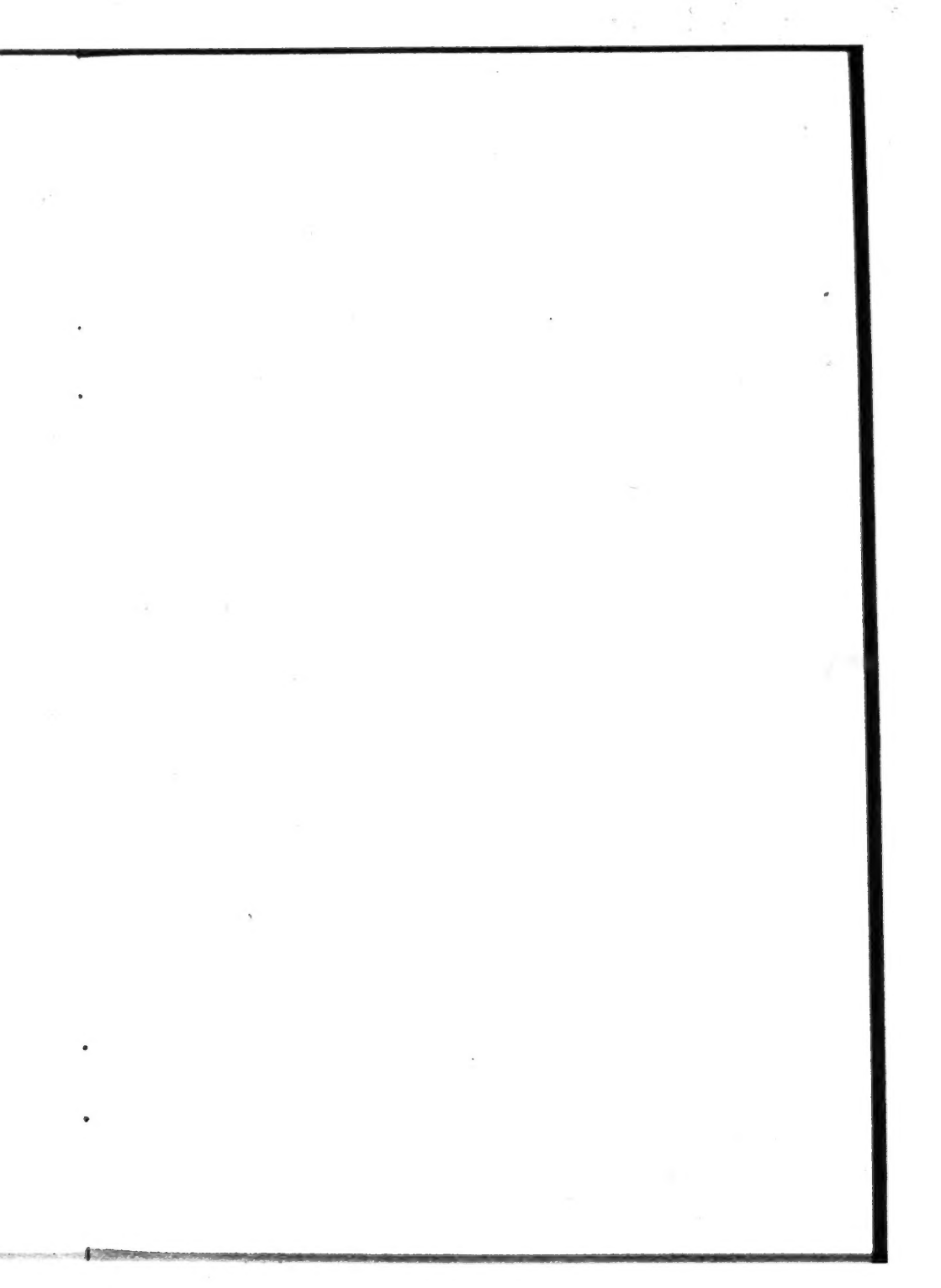
Filed January 7, 1974.

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted. The case is consolidated with No. 73-5661 and a total of one hour is allotted for oral argument.

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**REFERENCES TO THE OPINIONS OF THE DISTRICT  
COURT AND THE COURT OF APPEALS**

The opinion of the United States District Court for the District of Montana dated June 20, 1972, has been published at 344 F.Supp. 550, and is printed as Appendix A of the Petition for Certiorari. The opinion of the Court of Appeals for the Ninth Circuit dated August 1, 1973, has been published at 483 F.2d 220 and is printed as Appendix B of the Petition for Certiorari.







**APPENDIX**

**FEB 15 1974**

**MICHAEL RORAL, JR., JR.**

**Supreme Court of the United States**

**OCTOBER TERM, 1973**

**No. 73-5661**

**FRANCIS A. ADAMS, ROBERT J. STENEMAN  
and MICHAEL W. YOUNGQUIST,**

*Petitioners,*

**—v.—**

**SECRETARY OF THE NAVY and  
COMMANDANT OF THE MARINE CORPS,**

*Respondents.*

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT  
OF APPEALS FOR THE NINTH CIRCUIT**

**PETITION FOR CERTIORARI FILED OCTOBER 24, 1973  
CERTIORARI GRANTED JANUARY 7, 1974**

# Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-5661

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FRANCIS A. ADAMS, ROBERT J. STENEMAN  
and MICHAEL W. YOUNGQUIST,

*Petitioners,*

—v.—

SECRETARY OF THE NAVY and  
COMMANDANT OF THE MARINE CORPS,

*Respondents.*

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT  
OF APPEALS FOR THE NINTH CIRCUIT

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